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CONTENTS

REPORTS

NOTES OF THE WEEK

The Children Bill

The Children Bill, introduced in the House of Lords by the Lord Chancellor, contains 41 clauses and two schedules. Part I re-enacts, with some amendment, the existing provisions for child life protection contained in the Public Health Act, 1936, the Public Health (London) Act, 1936, the Children and Young Persons (Scotland) Act, 1937, and the Children Act, 1948. Apart from the inconvenience of having the provisions distributed in different statutes, it has been considered that their application is uncertain in view of the decision in *Wallbridge* v. *Dorset County Council* [1954] 2 All E.R. 201; 118 J.P. 305. The Bill seeks to remove that uncertainty.

Certain new powers are conferred on local authorities. Part I applies to children in independent boarding schools in England and Wales who stay on in school during the holidays.

It is intended that the Bill shall become law on January 1, 1959.

Amendment of Adoption Law

Part II of the Bill is based on the recommendations of the Hurst Committee but not all of the Committee's recommendations are embodied. Some of the recommendations, however, will be dealt with in statutory rules and regulations when the Bill becomes law.

A new ground is added upon which the consent of a parent to the making of an adoption order may be dispensed with, namely, that he or she has persistently failed without reasonable cause to discharge the obligations of a parent and that the failure is likely to continue if the order is not made. Under the existing law consent can be dispensed with in the case of a parent who has abandoned the infant, but in *Watson* v. *Nikolaisen* [1955] 2 All E.R. 427; 119 J.P. 419, it was decided that a parent "abandoned" an infant within the meaning of s. 3 of the Adoption Act, 1950, only if the abandonment was of such a kind as that which rendered a parent liable under the criminal law. The new clause deals with cases of what might be described as abandonment in a much wider sense.

Clause 23 makes it possible for persons domiciled in this country but not resident here, *e.g.*, persons spending their working lives overseas in the colonies and elsewhere, to obtain an adoption order, provided they can spend the requisite three months' probationary period in this country. Clause 24 enables a person (whether of British nationality or not) who is not domiciled here to obtain a provisional adoption order giving him custody of the child while he is in this country and authority to take the child abroad for adoption.

Some important provisions relating to procedure, evidence and appeal are contained in cl. 21.

Opportunity is taken to repeal s. 10 of the Adoption of Children Act, 1926, and s. 10 of the Adoption of Children (Scotland) Act, 1930, both of which have become obsolete, and also s. 127 of the Children Act, 1908.

Breach of Probation

Although a failure to observe any requirement of a probation order renders the probationer liable to sentence for his original offence, magistrates' courts often try the effect of the milder method of imposing a fine and allowing the probation to continue. Where the probationer commits a further offence of a serious kind the appropriate procedure is under s. 8 of the Criminal Justice Act, and generally a sentence for the original offence follows. However, where there is persistent disregard of some requirement it may be that sentence for the original offence is the right course.

In *R.* v. *Everson* (*The Times*, February 18) the appellant to the Court of Criminal Appeal had been sentenced by quarter sessions to borstal training following a breach of a requirement in the probation order to report to the probation officer. The original offence was office breaking and stealing. The report does not state whether there had been continual disregard or whether the probationer's conduct had been otherwise unsatisfactory.

In delivering judgment allowing the appeal the Lord Chief Justice said the Court did not think the sentence need

stand. The appellant, who was 18 years of age, was in work and earning a great deal of money, almost too much, and perhaps he did not report because he was tired at the end of a hard day's work. He had been in custody since November 30, and that was sufficient.

The appellant in this case did not escape all punishment for his failure on probation as he had nearly two months in custody. When sentence was passed the probation order automatically came to an end, in pursuance of s. 5 of the Criminal Justice Act. Now that sentence has been quashed, it may be argued that the termination of the probation order is also cancelled, and that the probation order remains in force. That is assuming that no other sentence was substituted for that of borstal training. It may be that the form of the judgment was to quash the borstal sentence and to substitute such a sentence of imprisonment as to involve immediate release, in which case of course the probation order remained ended.

The Driver Who Fails to Stop

According to the *Liverpool Daily Post* of February 12, 1958, Mr. Justice Glyn-Jones, in sentencing a man to 18 months' imprisonment and disqualifying him for 10 years for causing death by dangerous driving, said to him, "I would shrink at finding that you are the sort of brute who knowingly having knocked this man down drove on. That leads me to the view that you must have had so much to drink as to make it possible for you to have an accident like this without knowing."

The facts as reported were that the man who was killed had finished repairing punctures to the back tyre of his motor-cycle when he and the machine were hit by a car driven by the defendant. The car did not stop. It was later found to be damaged on the front near side. The defendant said, "I know nothing about it. I am amazed."

We know nothing of the facts of this case other than what appears in the report, and it is not for us to comment on them. It is clear, however, that there is a strong temptation for a driver who knows that he has had quite enough, perhaps too much, to drink, and who is involved in a slight accident to prefer to risk the penalty which may be imposed for failing to stop after an accident rather than to face the possibility of the much more serious charge under s. 15 of the Road Traffic Act, 1930, of "driving whilst drunk." The position is different where the accident results in serious damage and possible injury to some person, and the learned Judge made it clear that in the case in question he took the view that the defendant was not aware of what had occurred. But drivers who are found deliberately to have failed to stop after an accident have only themselves to blame if courts are tempted to draw the conclusion that they were not prepared to be interviewed at the time the accident occurred. Courts must act only on the evidence which is called before them, but they may draw reasonable inferences from that evidence, and it is not always easy to define what is a reasonable inference in any particular set of circumstances.

Proof by Photographs in Accident Case

An unusual situation arose in a case reported in *The Western Morning News* of January 12. The court was trying a charge of driving without due care and attention resulting from an accident between two cars. Both drivers were seriously injured in the collision and neither could remember afterwards what had happened. There appear to have been no other witnesses of the accident. The police seem to have taken measurements at the scene of the collision (no details of these are available) and to have drawn a diagram and taken photographs. As a result of their investigations they decided to charge one of the drivers with driving without due care and attention. Their evidence seems to have been the fact that the accident had occurred coupled with the diagram, the measurements and the photographs. The defendant's advocate submitted that there was no evidence of negligent driving by the defendant and that the evidence produced did not warrant a conviction. The justices came to the conclusion that the evidence produced was not sufficiently conclusive to enable them to say that the prosecution had proved their case and they had no course open to them but to dismiss the case.

The prosecution were in a difficulty here. There is a strong presumption when a collision occurs, and there are no unusual circumstances to account for it, that one or perhaps both of the drivers concerned were guilty of dangerous or careless driving. But in the absence of any positive evidence as to how either car was being driven it is very difficult to draw reliable conclusions from measurements and photographs taken *after* the accident has happened. In such circumstances the attitude of the police may have to be that they have very strong suspicions as to who was to blame but that they are unable to produce evidence which is sufficient to justify them in asking a court to find that those suspicions are well-founded.

Traffic Offences and Penalties in 1956

The Winter, 1958, issue of *The Pedestrian* quotes figures from "The Return of Offences relating to Motor Vehicles in England and Wales for 1956" which is published by the Stationery Office. There were a total of 712,962 offences or alleged offences. Of this total, 502,274 were dealt with by prosecution; 1,305 offenders were sentenced to imprisonment, and 468,270 were fined—the average amount of all fines being £2 7*s.* 4*d.*

Here are some details relating to specific offences. The maxima given are those which were in force throughout 1956 in some cases; in other cases higher maxima came into force on November 1, 1956.

Reckless or dangerous driving (maximum summary penalties, 1st, £50 or four months; 2nd, £100 and/or four months); 4,752 convictions; 112 sent to prison; 4,605 fined, average fine £12 4*s.* 2*d.*; 1,949 disqualified.

Careless driving (maximum, 1st, £20; 2nd, £50 or three months); 37,456 convictions, average fine £4 12*s.* 10*d.*; 1,698 disqualifications.

Driving, or in charge, while under influence of drink or drug (maximum as for dangerous driving); 4,399 prosecutions; 3,490 convictions; 184 sent to prison; 3,292 fined, average fine £19 14*s.*; 3,374 disqualified.

Exceeding speed limit in built-up area (maximum, 1st, £20; 2nd, £50); 70,640 convicted, average fine £2 9*s.* 10*d.*

Pedestrian crossing offences (maximum £5): 15,904 convicted; 15,553 fined, average fine £1 8*s.* 9*d.*; eight disqualified.

Equipment and maintenance of brakes (maximum £20); 14,806 convicted; 14,358 fined, average fine £2 1s. 1*d.*; 16 disqualified.

Dangerous load (maximum £20); 4,098 convictions, average fine £2 6*s.* 9*d.*; one disqualified.

Averages are misleading things from which to draw any conclusions as to the adequacy of penalties in particular cases, but the figures given above do suggest that on the whole courts tend to be lenient with traffic offenders and

that disqualifications might with advantage be imposed more frequently. It will be interesting to see whether the increased maximum penalties introduced by the Act of 1956 for dangerous and careless driving, driving while drunk and for pedestrian crossing offences are reflected in the corresponding figures for 1957 when they are published.

Road Traffic Act, 1956

Those of our readers who like to keep their statutes noted up to date will wish to note that The Road Traffic Act (1956) (Commencement No. 7) Order, 1958, brings into force on March 1, 1958, s. 18 (2) of the Act of 1956. This subsection amends s. 5 (3) of the Act of 1930 by substituting as the fee for a provisional licence "such fee not exceeding 10*s*. as may be prescribed" and "six months" as the period of validity of such a licence. Coming into force on the same date are the Motor Vehicles (Driving Licences) (Amendment) Regulations, 1958, which amend the 1950 Driving Licences Regulations and, in particular, prescribe a fee of 10*s*. for the grant of a provisional licence.

Increase in Drunkenness

At the annual licensing meeting in Liverpool the chairman, Mr. George A. Richards, stated, according to the *Liverpool Daily Post*, that convictions for drunkenness in the city for 1957 showed an increase of more than 500, the figures for 1956 and 1957 respectively being 4,187 and 4,704. The year 1956 showed an increase of 1,000 over the previous year. He said that one extremely disturbing feature of the chief constable's report was the number of young people appearing in court charged with drunkenness. There was an increase of 75 *per cent*. in 1957 in the number of those under 20, and no fewer than 119 were under 18. This did not necessarily mean that they were served in public houses, but the chairman urged licensees to refuse to serve persons when there was any doubt at all whether they had attained the age of 18, and they would be doing a public service if they discouraged young people from drinking too much, whether over 18 or not. Many assaults on the police were due to drink. Fortunately there were fewer cases of persons driving or being in charge of motor vehicles when under the influence of drink.

Mr. Richards made a suggestion which will certainly be generally accepted as reasonable when he called attention to the fact that maximum penalties for drunkenness fixed in 1872 bore no relation to similar fines imposed in these days of devalued currency. It might be that the law was in need of amendment so as to provide for higher penalties. This question of the revision of maximum penalties prescribed long ago is frequently discussed, and it is certainly worth while to take the opportunity of raising a maximum when legislation relating to particular offences is being prepared.

In his annual report for 1956 (*see* 121 J.P.N. 550) the chief constable of Liverpool referred to the extraordinary increase in drunkenness as perhaps the most disturbing feature in his report.

Crown Exemption

The smoke abatement case at Nottingham, now reported as *Nottingham Area No. 1 Hospital Committee* v. *Owen* [1957] 3 All E.R. 358; 122 J.P. 5, endorses a view of the law which we have expressed in several contexts, since the vesting of hospitals in the Minister of Health. The nationalization statutes passed under the Labour Government deliberately adopted different treatment for hospitals and for trading services. The physical assets and good will of the trading services did not become Crown property, but the hospitals did. This has always seemed to us so plain that we have wondered whether the legal proceedings at Nottingham were taken, less for the purpose of enforcing improvement in the particular case than of calling attention to a legal position which local authorities may well regard as unsatisfactory. We have had the same point in regard to cinematograph entertainments and the storage of petrol in hospital premises. Although both these matters involve the safety of life, it may also be asked whether Crown exemption of these premises is essential, in regard to such matters as public health and building lines. We have no doubt that hospital managements will ordinarily comply voluntarily with the same rules for safety as are imposed on other owners of property. They often consult the appropriate officers of the local authority, and we do not suggest that serious practical problems are at all common. On the other hand, it can hardly be said that there would be any grave infringement of constitutional principle, if the managing bodies of hospitals (who act on behalf of the Crown but are not officers of the Crown) were made amenable to the ordinary law, in matters affecting the premises under their control.

Cross Dressing

Our Note of the Week at p. 99, *ante*, headed "Masquerading," is a reminder of the curious fact that certain topics seem to occur at fairly regular intervals. That Note was concerned with a case where a woman was stated to have been sentenced to borstal training, for an offence which does not exist. The statement seems incredible, since neither the High Court nor quarter sessions could have shared the delusion that wearing clothes appropriate to the opposite sex is contrary to law. A correspondent suggests to us (admittedly by way of a long shot) that while working disguised as a man the woman may have been guilty of some other offence, such as obtaining wages by false pretences: *see* what is said about this at 102 J.P.N. 135. There might, again, have been some offence of making a false declaration for purposes of unemployment insurance, or the national health service, or something of the kind, although *prima facie* borstal would have been inappropriate if there were no more than this.

Our last quoted article, printed 20 years ago almost to the day, gave instances of several offences which might be facilitated by "cross-dressing," as well as blackmail which we mentioned in our Note last month. It also mentioned some cases where persons concerned with the administration of justice had been under a misapprehension about the law—a clerk to magistrates, a police superintendent, and a solicitor regularly appearing before magistrates were mentioned in that article.

In a further article at 113 J.P.N. 601, we mentioned parallel instances of misunderstanding in the newspapers. The latter article furnishes further illustrations of the fact that some instances of this kind involve psychological abnormality, although it is by no means true that persons of either sex who resort to cross-dressing are homosexual, as is sometimes thought. For the magistrate, the lawyer, and the constable, the important thing is to be clear about the law, so that persons who have to face a charge are charged with the right offence, and persons whose conduct is not illegal are not harassed upon an imaginary ground.

Lights on Overhanging or Projecting Loads

Although s. 22 (3) of the Road Transport Lighting Act, 1957, provides that "this Act shall come into operation at

the expiration of one month beginning with the date of its passing" that is not the whole story because concealed in s. 8 (7) we find that "subs. (2) to (6) of this section shall come into operation on such date as the Minister may by order prescribe." The Minister has now prescribed, by the Road Vehicles Lighting (Projecting Loads) Order, 1958, that those subsections shall come into operation on October 1, 1958.

On the same date the Road Vehicles Lighting (Projecting Loads) Regulations, 1958, come into force. They contain new provisions about the rear lamps to be carried by vehicles with overhanging or projecting loads which are dealt with in subs. (2) to (6) aforesaid.

Regulation 27 of the main regulations, The Road Vehicles Lighting Regulations, 1954, is to be revoked and reg. 4 of the 1958 Regulations makes new provision for the matter with which reg. 27 deals, *i.e.*, vehicles used for the conveyance of fire escapes. By this provision references in s. 8 (2) of the Act of 1957 to 3½ *ft.* are to be replaced by references to six *ft.* in relation to a vehicle carrying a fire escape and to a mechanically-propelled vehicle being a land tractor or an agricultural tractor on which is mounted an agricultural implement, whether a vehicle or not.

Regulation 5 of the new regulations will make it necessary for a special rear lamp to be carried by a vehicle with a load which overhangs laterally more than 12 *in.* from the outermost part of the vehicle on the side where the projection is. This regulation is not to apply to any vehicle carrying loose agricultural produce which is not baled or crated.

Unsewered Development

A local newspaper reports that an urban district council in Sussex has decided to refuse all applications for planning permission involving connexion to the council's sewers. We assume that the district council is exercising powers delegated by the county council; the county council may or may not approve this line of action. The district council's reason is that its sewers are already full, and the medical officer of health is said to have advised that even a single connexion might be dangerous. The council hope that wholesale refusals will produce a crop of appeals to the Minister of Housing and Local Government, so that the Minister's hand, and the hand of the Chancellor of the Exchequer, may be forced to relax the credit squeeze, so far as to enable the council to provide further and better sewers for the district. When answering P.P. 9 at p. 96, *ante*, we expressed the opinion, as we had done earlier at 116 J.P.N. 446, that planning permission could lawfully be refused (subject of course to appeal) on the ground that existing sewers were inadequate to serve the development proposed, if this was of a type which required sewers. We added that in our opinion each application for permission must be considered by the planning authority on its own facts, and not decided upon a predetermined policy.

We have no doubt about the second point. Upon the point of *vires* we have seen doubts expressed. It has been suggested that refusal of planning permission on this ground would really be letting the local authority off its duty under s. 14 of the Public Health Act, 1936. It will, however, be seen from a group of decisions by the Minister of Housing and Local Government published in his selected decisions of January, 1957 (bulletin XII), that he agrees with our view that planning permission may lawfully be refused on the ground that there are not adequate sewers.

This is not to say that permission ought to be refused in many of the cases which arise. The Public Health Act, 1936, recognizes other methods of drainage, and the above-quoted bulletin of decisions mentions several cases where an appeal has been allowed, because it was not necessary to have a connexion to a sewer.

POOR CINDERELLA

THE MAGISTERIAL SERVICE UNDER THE JUSTICE OF THE PEACE ACT, 1949

By A JUSTICES CLERK

The Justices of the Peace Act, 1949, received the Royal Assent at the end of 1949 and became fully operative on April 1, 1953. Sufficient time has now elapsed to form some assessment of its workings, and it is perhaps not too much to say that, in relation to clerks of county divisions it has not realized the central recommendation of the Departmental Committee on Justices' Clerks expressed in the Roche Report, that the administration of the clerical side of magistrates' courts should be clear of any form of control by elected bodies. Even in county boroughs the path has not been an easy one, but in county divisions it is not too much to say that the magistrates' clerk, and his assistant, are to all intents and purposes regarded as an inferior species of local government officer.

That this is no exaggeration is proved in the first place by the salaries: leaving aside that the worth of a clerk, judged on this basis, is considerably less than a clerk to a local authority, although the latter need have no statutory qualification at all, the difference is marked in the case of assistants and has been recently emphasized by an award of the Joint Negotiating Committee for Justices' Clerks' Assistants. This body, born after prolonged labour, produced salary scales and conditions of service, again after a stiff battle with the serried ranks of local authorities as recently as April, 1957.

The conditions of service contained a provision that increases should follow those of local government officers but on the very first occasion when such an increase was granted, the condition was deleted by the governing body and the increases given on grades which had been paid similarly, even if named differently, beforehand. To take a few examples—more could be given—what is called a Higher General Division Assistant in the magisterial service, is dignified by the name Administrative, Professional or Technical Assistant, Grade 1, in local government, and the comparable scales are as follows:

Old Scale		*New Scale*	
Magisterial Service	*Local Government*	*Magisterial Service*	*Local Government*
£543 5*s.*	£543	£570	£575
£563 15*s.*	£564	£600	£605
£584 5*s.*	£584		
£604 15*s.*	£604	£630	£635
£625 5*s.*	£625	£660	£665

In plain English, an assistant in a magisterial office is now considered £5 *per annum* less valuable than one of a similar grade working in a local government office. Going to the other end of the A.P.T. Division of the Nalgo salaries, once Grade VII and now Grade V, we find that this is comparable to a telescoping of the old Grades F and I of the Senior Clerks' Division in the magisterial service, and the differences are:

Old Scale		*New Scale*	
Magisterial Service	*Local Government*	*Magisterial Service*	*Local Government*
£997 7 6	£999	£1,030	
£1,045 10 0	£1,045	£1,080	£1,175
£1,091 12 6	£1,092	£1,130	
£1,137 15 0	£1,138	£1,180	£1,225
£1,183 17 6	£1,184	£1,230	£1,275
£1,230 0 0	£1,230	£1,280	£1,325

Here, the minimum difference is £45 *per annum*, again in favour of local government. Even in the General Division which in the magisterial service covers the range represented in local government by both the General and the Higher General Divisions, although the salary is initially higher, it is eventually the same, but typists, as well off up to December 31, 1957, fall behind their local government equivalents after that date by amounts varying from £3 to £10 per annum.

There seems to be little sense in this to us; the cost of living bears equally heavily upon both the local government officer and the magisterial official and the work of the latter undoubtedly calls for quicker thinking, as in court there is little time to study a point of law before advice is tendered: a high degree of basic knowledge is first necessary. In addition, the shorthand typist is not likely to find herself taking depositions in typescript in court, a task which most certainly calls for a very high degree of typing skill allied to an ability to spell, and to telescope the complicated question and qualified answer into one sentence accurately reporting the sense of a number of sentences. Further, she may well be called upon to take notes of proceedings in shorthand, notes containing words for which no specific outlines are taught and which are not used in ordinary society. If she was a docker, she would probably claim dirty money for some of her work, but as she has seen fit to work in the office of a justices' clerk she gets less money than her sister in the town clerk's office, who has frequent tea-breaks—there are no tea-breaks in court—and intervals for gossip about the peccadilloes of the male members of the staff—neither does a court session give time for gossip.

The salaries of clerks to justices compare unfavourably with those of senior officers in divisions of comparable size and of course are well behind those of clerks to local authorities. Although alone among those we have mentioned the justices' clerk, must, by statute, be qualified either by professional examination and status or by length of service in a subordinate capacity, clerks have accepted their grave salary disadvantage with good grace and can at least claim that the increases have kept step with those of senior officials in local government, even if the steps have sometimes marched a long way behind in time.

The differences of salary between the two services are symptomatic of the defects of the Justices of the Peace Act, 1949, in its relation to the magisterial service, and one fault is to be found in the phrasing of para. 9 of sch. 4 to the Act, the effect of which is that whilst in a borough having a separate magistrates' courts committee or in such counties as were not divided into petty sessional divisions, the magistrates' clerk should be *ex officio* clerk to the committee, and that in other cases, that is to say counties, the committee should appoint a clerk. Then the Act itself rejected the recommendation that in counties magistrates' courts committees should be set up for divisions of a population of less than 75,000 leaving the larger division to manage their own affairs and made magistrates' courts committees for counties, irrespective of the size of the divisions. At 122 J.P.N. iii there is an advertisement for a magisterial assistant in an Essex county petty sessional division with a population of no less than 650,000, larger than not a few administrative counties, yet this large division merely sends one justice to the Essex magistrates' courts committee. However administratively convenient the provisions of the statute may be—and we suspect that a passion for uniformity is greater than a quest for convenience, the result has been that the county magistrates' courts committee is largely dominated by the county council, having the clerk to that council, or an assistant in his office, as its elected clerk, a staff of committee clerks whose main interest is in their main employers, the county council, with the county treasurer as its financial adviser. This, of course, is flatly opposed to the recommendations of the Roche Report which said, in para. 92: "We do not think that justices' clerks ought to be appointed by a body that is a police authority, and we therefore reject the suggestion of vesting appointments in standing joint committees. It has been suggested that county councils should be entrusted with these powers. In our opinion direct control by elected bodies over any person forming part of the system for the administration of justice is most undesirable. City and borough councils, being both elected and authorities for police purposes, are doubly undesirable." The Justices of the Peace Act followed the letter of the recommendation, but in the case of county divisions left the door open to considerable official influence by officials who owe their main allegiance to "an elected body."

There can be little doubt that this had had its effect on the salaries and status of clerks and assistants—but what of other matters: in the first place, in countries, neither clerks nor their assistants have direct access to the committees which not only control their salaries but supply the needs of their offices. Any application, be it for a new typewriter or an increase in an assistant's salary, must be made in writing, to be submitted to the committee subject, no doubt, to the opinion, critical or otherwise, of the county official who is its clerk, and to the financial thoughts of the county treasurer. When the committee has decided in favour of the clerk's proposal, if it does so, then there has to be consultation with the county council, advised by the same officials, before the expenditure is in fact incurred. It is nothing short of farcical to pretend that this system makes the magisterial service free of county council control, although of course the rigour of that control varies from county to county, depending largely upon the personality of the clerk to that august body. In some counties it is very strict indeed, in others in every way reasonable, but in very few cases indeed does the magistrates' courts committee seek the advice of the person likely to know the problems of a justices' clerk's office, that is to say, of an experienced magistrates' clerk.

In conclusion, the writer thinks fit to say that he has no personal axe to grind. He is fortunate to serve in a county where every request he has made for equipment has been met, even if sometimes there has been what seemed an interminable delay in the supply, where his salary stands at

its maxim, and where he is in every way happy. The cloak of anonymity, which he dislikes, enables him to say these things freely and at length, but he is aware of other counties where his *confreres* are not so fortunate, and he is aware of dissatisfaction among his staff at the turn of events in connexion with their own salaries. And magisterial staff are in an unfortunate position when it comes to seeking other employment if they are dissatisfied: they have obtained in the service a skill which is useless elsewhere, and if they have to look for fresh employment outside that service are at a disadvantage, as, indeed, is the clerk himself. If the magisterial service is to continue at its present high level, salaries and conditions must not fall behind commerce, the professions, the civil service or local government. Not so many years ago the Annual Conference of the Justices' Clerks' Society was held in a county which boasts for its arms the Bear and Ragged Staff. At the public dinner which is the climax of such occasions one speaker said that those arms were appropriate to the Society, as in many cases their stipends made them bare, and their staffs ragged: conditions have improved since then, but now show signs of falling behind again. It is vital that this should not happen.

THE PUBLIC ANALYST'S REGULATIONS, 1957

[CONTRIBUTED]

This journal at p. 724 of last year's volume carried a contributed "Critical Note" on the Public Analyst's Regulations. The purpose of the present contribution is to draw attention to one or two demonstrable inaccuracies in this note and also to make some general comments upon its main theme. This, it may be recalled, was a criticism of one of the notes, (7), to the prescribed form of public analyst's certificate and in particular, that part of it permitting the analyst to insert at his discretion his opinion "whether and in what respect a label or description or any advertisement relating to the sample is incorrect or misleading." It was argued that the public analyst is an expert and that he must confine himself to the scientific elements of the case and that the test must be what the ordinary person would understand by the label or advertisement. "Further"—says the contributor—"bearing in mind that what is formally submitted under statutory powers to an analyst is merely a sample in a sampling jar marked with a designation written on by a sampling officer it seems extraordinary that his opinion on a certificate should be invited in respect of matters on a trade label or advertisement not required to be (and not in practice) sent to the analyst."

Fortunately it is far from true that labels, advertisements and the like are not in practice sent to the analyst. It may be that in some authorities the analyst is deprived of this essential information, but these are in a minority and it is to be hoped that they will come to see the unwisdom of their ways, for the analyst is certainly the best judge, and sometimes the only one who can judge, whether a label is misleading or incorrect. There are signs of a mistaken impression gaining ground that the public analyst is an expert only in analysis. That of course he must of necessity be, but, in addition, he is by training and experience expert in the science of nutrition and in the origin and production of foodstuffs and in their composition and standards. Yet with the results of his analysis in mind and with his experience and knowledge both of the particular food and of similar foodstuffs it is argued that he may not, after a study of the label or advertisement in question, say that in his opinion it is inaccurate or misleading because this is the very question the court has to decide. This may be a considerable part of what the court has to decide but is not by any means all of it. What has to be decided in the case of a label is that it is in fact incorrect or misleading and that it was given by the person charged with the offence and that he did not know and could not with reasonable diligence have ascertained that it was incorrect or misleading. In the case of an advertisement the court has to decide similar matters and also whether the defendant's business was to publish or arrange for the publication of advertisements and whether he received this particular advertisement for publication in the ordinary course of business. A doctor may testify that a wound could not have been self-inflicted and that it was the cause of death—these are some of the questions a court may have to decide but there will be others such as whether it was inflicted by the person charged with murder and whether it was so done in self-defence.

Obviously someone other than the court has to make a decision on these matters or the case would never get to court at all. It may of course be argued that what is all right for the informant in his information is not all right for the analyst in his certificate. On the other hand the public analyst must be mindful of the *dicta* of Kennedy, J., in *Bayley* v. *Cook* (1905) 69 J.P. 139 and of Lord Goddard, C.J., in *Gammack* v. *Jackson Wyness Ltd.* [1948] 2 All E.R. 1056. In the first of these cases Kennedy, J., said:

> "I think it most important that accused persons should know of what they are accused and what is the charge they have to meet, and this without any elaborate calculations in order to discover the standard of comparison, and I hope that analysts in giving certificates will err, if at all, on the side of fullness and simplicity."

And in *Gammack* v. *Jackson Wyness,* Lord Goddard said:

> "This Court does not think it right in a criminal case to encourage analysts to give certificates like this which leave the matter in a vague and unsatisfactory way and can only be tested by doing these sums. Analysts should understand that their certificates should be in a form which an ordinary person, not an analyst and perhaps not a mathematician can understand. These certificates may affect quite humble and unintelligent people and it is right that they should know what it is suggested they have done wrong."

While it may of course in some instances be a good and a proper test to apply to a label to ask what the ordinary man understands by it, there are plenty of cases where this test breaks down. If an ordinary man sees, let us say, molasses labelled "rich in aneurine" what does he understand by that? Almost certainly nothing. Even if the statement is "rich in Vitamin B_1," the answer is still the same unless he is particularly well educated when as like as not he will connect it vaguely with yeast! Not one ordinary man (*i.e.*, one without expert knowledge) in a hundred thousand could tell you how much of the vitamin such a statement would lead him to expect.

If the "ordinary man" were the infallible judge why would it be necessary to have any food standards prescribing

quality at all? He would know how much fat he expected in his milk and ice cream, how much alcohol in his whisky, how much meat in his meat paste, how much fruit in his jam and so on. But he does not know, even the sampling officer does not in general know and experts have to know for him and their knowledge is embodied in food standards which are prescribed by law. Nor is this expert interpretation on his behalf confined to the food he buys—to take two examples at random he has the minimum quality of his gas guaranteed by the Gas Quality Regulations and of his electricity by the Electricity Supply Regulations.

There are plenty of cases of foodstuffs where no legal standard exists and here of course the public analyst is generally the only one who can say whether the article is of the nature, substance and quality demanded by the purchaser—Mr. (or Mrs.) Ordinary Man. If the latter has bought marzipan containing 15 *per cent.* almonds almost certainly he or she is not aware of being prejudiced, but the public analyst is able to compare the result of his analysis with his knowledge of the composition of marzipan both at the present time and in the past and knows that 25 *per cent.* almonds is a reasonable figure. Similarly with luncheon meat containing 50 *per cent.* meat the public analyst knows that a decent sample would have 80 *per cent.* In these examples the purchaser cannot detect the deficiency by taste: he neither knows of what quality the article is nor what quality it should be. In such cases—and many similar ones could be given—how can the ordinary man possibly be a judge of labels and advertisements?

The instance of the molasses claiming to be rich in aneurine is taken from actual experience and the claim was accompanied by a statement of the vitamin B_1 content. Analysis showed this to be approximately correct but the amount present was small compared with the human daily requirement and the claim that the article was rich in aneurine was inaccurate and misleading. It is very doubtful whether this point would have been apparent if the public analyst had not drawn attention to it in his certificate. Furthermore, had he not received the label the point would never have been investigated. In a recent case the label of cider vinegar contained the words "promotes slimness with vigour." From his analysis combined with his knowledge of nutrition the public analyst knew (as the sampling officer and others could not possibly know) that the article could not have the properties claimed. The makers were prosecuted and fined. If the public analyst had not stated in his certificate that the words quoted were incorrect and misleading an information would not have been laid.

Prepacked foods in general are required to contain on their lables a list of ingredients in descending order of predominance by weight. The purpose of this requirement was to assist both the buyer and the public analyst. It is very doubtful if many purchasers pay attention to it but the public analyst certainly does. If he does not receive the label with this list, as he should, his task may be made many times more difficult and it is extremely likely that a vital point in the examination may be missed.

These "real life" examples could be multiplied but enough has been said to show that the public analyst is in fact the best and sometimes may be the only judge of the correctness of labels and advertisements and that to send a sample to him without these is to deprive him of necessary information and the buying public of the best possible measure of protection.

Phipson on Evidence under the heading Subjects of Expert Testimony and the sub-heading Facts, says: "The testimony of experts is not confined to opinion evidence; they may, and frequently do, testify to matters of fact specially cognizable by them, *e.g.*, the meaning of technical terms, the existence of trade custom, or the conditions revealed by an autopsy. And they may, of course, prove ordinary facts, not as experts but as ordinary witnesses."

There remain one or two minor points of detail where the original article itself may be criticised. At the end of the third paragraph on p. 724 the author either has not noticed the seventh line of the certificate, "as a sample of . . . for analysis" or if he has noticed it he is under the impression that it is to be filled in only when the sample has been submitted by one public analyst to another. If so, he has not properly read note (4) to the fifth and sixth lines which says "delete whichever line is inapplicable" and thus leaves the seventh line to be filled in in any case.

Finally, in his last paragraph the author has missed the point. The statement on the old certificate referred to the possibility of any decomposition that would interfere with the analysis. This, however, went too far; it is quite possible for a decomposed sample of milk to be analysed, and although the decomposition may have interfered with the analysis, the analyst may be able to say quite positively that the milk was (for example) deficient in fat. If, then, he gives a certificate to this effect, he can say that no change had taken place in the milk which would affect this opinion, though it did interfere with the analysis. Since the former and not the latter is the crucial point, the new wording is an obvious improvement on the old. H.E.M.

ADDITIONS TO COMMISSIONS

LINCS. (Parts of Lindsey) COUNTY

John Bennett, The Old Rectory, Barnoldby-le-Beck, Grimsby.
Douglas Brown, 40 Ashcroft Road, Gainsborough.
Mrs. Patricia Caudwell, Clough House Farm, Croft, Wainfleet, Lincs.
Harry Ronald Oliver Chipp, The Highlands, Westwoodside, Doncaster.
Douglas Edward Fairey, 26 Broadley Crescent, Louth.
Ernest Robert Garrood, Mill House, North Kelsey, Lincoln.
William Clifford Hall, Caistor Road, Market Rasen, Lincs.
Mrs. Nora Elizabeth Linnell, 22 Daubney Street, Cleethorpes.
Mrs. Jean Macfarlane Macgregor, Belton Road, Epworth, Doncaster.
John Osmund Oslear, 52 Kingsway, Cleethorpes.
Dr. Alfred Neville Redfern, 209 Eastgate, Louth.
Mrs. Gladys Short, 4 Melville Street, Gainsborough, Lincs.
Ronald Edgar Stamp, North Cliff Road, Kirton-in-Lindsey, Gainsborough.
Mrs. Mary Gertrude Townsend, West Acre, Westfield Road, Barton-upon-Humber.
Steve Burton Vickers, Walesby Road, Market Rasen, Lincs.

PEMBROKE COUNTY

James Ronald Lewis, Tresinwen, Goodwick, Pembs.
William Henry Thomas, Lota Villa, Ropewalk, Fishguard, Pembs.

SOMERSET COUNTY

William Thomas Baker, Heywood, Nynehead, Wellington.
George Coleman, 4 Marston Road, Frome.
Harold MacDonald John Browning Dowdney, The Brow, Queen Charlton, Keynsham, nr. Bristol.
Arthur Duckworth, Orchardleigh Park, Frome.
Mrs. Joan Julie Vyvyan Eames, Cotley, Chard, Somerset.
David Henry Hebditch, New Cross Fruit Farm, South Petherton.
Mrs. Marjorie Hickling, 70 Charlton Road, Keynsham, nr. Bristol.
Col. George William David Jennings, Babington House, Frome.
Leslie Johnson, Warren House, Bincombe, Over Stowey.
William Geoffrey King, Tatham House, Bishops Lydeard, Taunton.
Mrs. Mary Margaret Manning, 31 Addison Grove, Taunton.
Stanley Ackland Walter, Weetwood, Congresbury, nr. Bristol.

SUPERANNUATION FUND INVESTMENTS: INTERNAL OR EXTERNAL?

The statutory provisions concerning the investment of superannuation funds are contained in s. 21 (3) of the Local Government Superannuation Act, 1937, which reads:

"If any moneys forming part of a superannuation fund . . . are not for the time being required to meet payments to be made out of the fund . . . , the administering authority shall invest the moneys in securities in which trustees are authorized to invest, or, in lieu of such investment, may use the moneys for any purpose for which they have a statutory borrowing power, or may lend the moneys to any other employing authority contributing to the fund for use for any purpose for which that authority have a statutory borrowing power, subject to the following conditions, that is to say:

(*a*) interest shall be paid to the fund on any moneys so used and for the time being not repaid at such rate *per cent. per annum* as may be determined by the administering authority to be equal, as nearly as may be, to the rate of interest which would be payable on a loan raised on mortgage under the statutory borrowing power; . . . "

An administering authority is thus given the option to invest in securities not created by any authority whose employees are in the fund or to lend the money to itself and/or to any of the employing authorities in membership. Most funds are still producing substantial annual balances of receipts over payments and therefore, if (as should be the case) the investment of such balances is done at frequent intervals the administering authority will be required to determine several times each year what kind of investment shall be made.

This is not a new problem. It has existed since superannuation funds were created but acquires additional importance at certain times. One of these times was the cheap money era after the last war when for nearly two years the Public Works Loan Board was lending money for up to 15 years at two *per cent.* and for over 15 years—even up to 60 years—at 2½ *per cent.*, and the borrowers had no difficulties about getting the money provided, of course, the requisite formalities had been completed and the loan sanction had been given. Indeed, from August 1, 1945, to December 31, 1952, local authorities were, subject to certain exceptions, prohibited from borrowing from any source other than the Board. In the early part of this period when local services had not recovered their momentum after the almost complete stoppage of the war little capital work was undertaken and administering authorities had no substantial outlet for their balances except into trustee securities, which in practice largely meant into gilt-edged government stocks. Those treasurers and authorities who did not believe that cheap money would last invested in short dated securities at temporarily lower rates than were obtainable on longer term stocks, being subsequently able to reinvest on beneficial terms at considerably higher rates, so that their funds gained substantially on balance.

Later on, in the period June, 1946, to October, 1951, there occurred a divergence between market rates of interest and P.W.L.B. rates. The Board's long-term rate during that period remained at 2½ *per cent.* until January, 1948, and was then increased to three *per cent.* The yields on 2½ *per cent.* Consols and 3½ *per cent.* War Loan were higher than the Board's rate during the whole of the period, increasing steadily to around 3¾ *per cent.* and four *per cent.* respectively. In these circumstances many treasurers advised their authorities to sell in the dear market and buy in the cheap one—in other words they invested their superannuation funds in trustee securities and borrowed for new capital works from the Board.

The present period of high interest rates has again brought the problem sharply into the limelight. While there are those who consider that dear money is here to stay the majority of financial officers are advising their councils to borrow at present wherever possible for short periods only and loans amounting in total to very large sums indeed have been and are being negotiated for periods of seven years or less. At the same time a great many administering authorities, because of the dearness of outside loans and the requests made by local authorities comprised in the fund, have agreed and are continuing to agree to lend all their balances internally. Although the words "Jekyll and Hyde" leap to the mind as a description of this relationship we reject them as inaccurate: nevertheless the procedure ought not to be accepted without examination because in the long run the policy adopted can make a big difference to calls on the ratepayers.

Examples may help to make clear what we have in mind.

To enable a comparison to be made of the financial advantages of alternative methods of investment it seems necessary to compare earnings over a long period, and therefore calculations have been made of the amount to which an investment now of £100,000 in cash would accumulate in 46 years. To arrive at these accumulated values, it has been necessary to make certain assumptions, *viz*:

(i) All interest earned is reinvested annually at four *per cent. p.a.* (The historical average rate of interest over the past 50 years has been about 3½ *per cent.* It can be said that the next 50 years or so are unlikely to repeat the pattern of any other half-century; this may be so but it does not at all follow therefore that very high interest rates will continue. To consider only two influencing factors, a slump would reduce commercial capital demands and thus exert an influence on interest: in addition H.M. Opposition, if they came to power, might alter present monetary policy.)

(ii) For the six, 15 and 20 year investments, the accumulated sum available at the end of those periods, is reinvested for the remainder of the 46 years at four *per cent. p.a.*

(iii) That the superannuation fund remains liable for income tax on one-eighth of its total investment income at the present standard rate of 8*s.* 6*d.* in the £ (*i.e.*, an effective tax rate of about 1*s.* in £ or five *per cent*).

	Accumulated value after 46 years £
(*a*) Investment internally at 6½ *per cent. per annum* for	
(i) 15 years and at four *per cent. p.a.* thereafter	727,900
(ii) six years and at four *per cent. p.a.* thereafter	649,900
(*b*) Investment in outside mortgages at 6½ *per cent. p.a.* for 20 years and at four *per cent.* thereafter	761,900
(*c*) Investment in 3½ *per cent.* Funding Stock 1999/2004 ... ... (Commission would be payable on this type of investment but would not exceed £2,000 in total.)	809,000

The greater the interest return on superannuation fund investments, the smaller will be any additional deficiency contribution which may become necessary by virtue of statutory quinquennial actuarial valuations.

If the £100,000 were not invested internally, the local authority would have to borrow its equivalent from other sources. Under present conditions if mortgage loans were the method used, it would be necessary to pay 6½ *per cent. p.a.* interest for say two years. Assuming that this were done and the amount then reborrowed for 44 years at four *per cent. p.a.* the total interest paid for the 46 years would amount to £189,000. Brokerage commission and advertising expenses have been ignored.

If, however, the superannuation fund lent the £100,000 to the local authority on bases described in points (*a*) (i) and (ii) of the previous paragraph respectively, the total interest payable by the authority for the 46 years would amount to £221,500 and £199,000. (The striking difference between these latter two amounts and their counterparts of £727,900 and £649,900 mentioned in points (*a*) (i) and (ii) is accounted for by the fact that for investment purposes, compound interest has had to be assumed while for borrowing purposes, simple interest calculations have been made.)

As stated previously these figures are examples based on certain assumptions. Obviously the figures would be altered drastically if a reinvestment of, say, five *per cent.* was assumed. Nevertheless the point is sufficiently made that the interests of the superannuation fund and of the local authority rate funds are opposed. The superannuation fund has the opportunity at present of investing for a long period (almost 50 years) at a gross redemption yield of around 5¾ *per cent.* but we cannot imagine any finance committee or council willingly borrowing for a comparable period at such a rate.

Investment internally therefore can only mean that one or both of the parties have to accept terms less favourable than could be negotiated elsewhere.

MISCELLANEOUS INFORMATION

HOMES AND HOSTELS: MAINTENANCE RATES

In Home Office Circular No. 17/1958 it is stated that the weekly flat rates in respect of persons under the supervision of a probation officer and required by a probation or a supervision order to reside in an approved probation hostel or an approved probation home are, from April 1, 1958, to be increased. The rate for hostels will be £1 18*s.* 6*d.*, and for homes £3 11*s.* 9*d.* The maximum weekly charge to residents in approved probation hostels will be increased to £3 1*s.* 3*d.*

REGISTRATION OF RESTRICTIVE TRADING AGREEMENTS

Parliament has approved the second and final order (S.I. (1957 2158) made under ss. 9 and 10 of the Restrictive Trade Practices Act, 1956, calling up for registration all agreements not covered by the first order. The agreements now made subject to registration are those in which the only relevant restrictions relate to

(*a*) the quantities or descriptions of goods to be produced, supplied or acquired; or

(*b*) the processes of manufacture to be applied to any goods or the quantities or descriptions of goods to which any such process is to be applied; or

(*c*) the areas or places in or from which goods are to be supplied or acquired, or any process of manufacture supplied.

The order was made on October 29, 1957, came into force on December 31, 1957, and provides for a "prescribed period" of three months. Accordingly as regards agreements covered by the second order:

1. There is *no* obligation to submit particulars of any agreements terminated before December 31, 1957, or of agreements terminated before March 31, 1958, which were in existence before October 29, 1957.

2. Particulars of agreements in existence before October 29, 1957, and varied between December 31, 1957, and March 31, 1958, so as to become unregistrable should be sent to the Registrar, but will not be registered.

3. In the case of agreements in existence before October 29, 1957, which are varied before March 31, 1958, but remain registrable, particulars of the agreement as varied should be submitted.

4. In the case of all other agreements particulars should be submitted by March 31 or within three months of their being made. Particulars of variations and terminations made after December 31, 1957, should be submitted within three months of the change.

Very broadly, the effect of the timetable above is that parties who wish to abandon an agreement rather than have it registered must abandon it before March 31, and parties who wish to alter their agreement and to ensure that it is registered in the altered form must alter it before March 31.

By the Registration of Restrictive Trading Agreements Regulations, 1956 (S.I. 1956 1654), four copies (one signed) of all relevant documents are required for registration together with a certificate on the appropriate form.

LAW SOCIETY EXAMINATION

[*By courtesy of the Law Society, we are able to publish below the questions for the Final Examination, held on Wednesday, November* 6, 1957 (2.30 *p.m. to* 5.30 *p.m.*).]

A(1)—THE PRACTICE OF MAGISTRATES' COURTS, INCLUDING INDICTABLE AND SUMMARY OFFENCES; MATRIMONIAL JURISDICTION, BASTARDY, JUVENILE COURTS, TREATMENT OF OFFENDERS, CIVIL JURISDICTION, COLLECTING OFFICERS' DUTIES, THE ISSUE OF PROCESS, EVIDENCE IN CRIMINAL CASES, AND LICENSING.

(*Questions* *1 *2 *and* *3 *are compulsory.*)

*1. The owners of the Crown Inn propose to enlarge the premises by the incorporation of an adjoining shop. The primary purpose is to provide living quarters for the licensee. Customers will be enabled to enter the bar through, what is at present, the door of the shop. To what extent will the consent of the licensing justices be required and how may this be obtained?

*2. A summons for an alleged summary offence has been served by leaving it for the defendant with an adult at the defendant's usual place of abode. On the hearing, a certificate of such service is produced. The defendant fails to appear and no communication has been received from him since the summons was served. Advise the justices whether service is proved.

*3. William is convicted by a magistrates' court of larceny and sentenced to six months' imprisonment. He denied the offence and wishes to appeal against the conviction. He also desires to be at liberty pending the appeal. What steps may he take to appeal and to obtain his liberty and what are the functions of the justices' clerk in relation thereto?

(*Attempt seven and no more of the remaining questions.*)

4. In 1952, Mrs. A obtained a maintenance order against her husband, on the ground that he had wilfully neglected to maintain her. Payments were made regularly in accordance with the order. In August, 1957, the parties became reconciled. At the end of the first week of resumed co-habitation Mr. A. failed to provide his wife with any money and she thereupon left the matrimonial home. Mrs. A now desires to receive payments in accordance with the maintenance order. How should she be advised?

5. Helen, a married woman, gave birth to a child in 1955 of which her husband is not the father. In 1957, Helen, while still residing with her husband, obtains national assistance in respect of the child. Helen has taken no proceedings against the child's father and has received no payment from him in respect of the child's maintenance. What proceedings may be taken by the National Assistance Board against the father?

6. After a juvenile court has made an approved school order in respect of a boy, his parent asks how long his son will be away from home. How should the inquiry be answered?

7. Roberts is charged with receiving a wireless set knowing it to have been stolen. The police have found in his possession a bicycle stolen six months ago and a typewriter stolen in 1954. When asked to account for possession of these articles, Roberts stated that he bought both articles from the man who stole the wireless set Will the prosecution be entitled to give evidence that the bicycle and typewriter were found in Roberts' possession and of his statements with regard thereto ?

8. P is summoned for driving his motor car at an excessive speed. He fails to appear at the hearing and is convicted in his absence. Thereupon, the prosecutor seeks to inform the court that P has been previously convicted (i) of manslaughter while driving a motor car, and (ii) of driving a motor car without due care and attention. May he properly do so ?

9. X is charged with permitting his motor car to stand on a road so as to cause an unnecessary obstruction thereof. The evidence discloses that X, having no garage, has left the car outside his house overnight. He submits that this does not amount to an " unnecessary obstruction," as there was adequate room for other vehicles to pass and as he had nowhere else to accommodate his car. How should the justices be advised ?

10. George, aged 19 years, is convicted of assault and fined £5. He is ordered to pay this amount at the rate of £1 per week and a supervision order is made. No payment has been received. Assuming that George has no goods upon which distress can be levied, what proceedings should be taken to enforce payment ?

11. A police constable finds Jones asleep at the wheel of his motor car. He forms the opinion that Jones is under the influence of drink to such an extent as to be incapable of having proper control of the vehicle. Jones is accused of having charge of the vehicle in these circumstances. On the hearing, the defendant explains that, being overcome with the effects of alcohol, he had deliberately fallen asleep and states that he had no intention of resuming driving until he was fit to do so. If the justices believe this explanation, will it provide a good defence to the charge ?

12. Mr. and Mrs. X wish to apply for an adoption order in respect of Mary, the illegitimate daughter of Miss Y. The applicants do not wish their identity to become known to the child's mother. What procedure may be adopted to ensure this ? As the application proceeds, Miss Y, who had given her consent, desires to withdraw the same. Will she have any opportunity to do so ?

A (3)—Local Government Law and Practice

(*Questions* *1, *2 *and* *3 *are compulsory.*)

*1. Jones, a solicitor, is a member of the Ayton borough council. The town clerk resigns. Can Jones be appointed town clerk (*a*) without remuneration or (*b*) if he resigns from the council ?

*2. The Beeton borough council wish to run a zoo, which they are not authorized to do by any general or local Act. What is the position ?

*3. How are the electoral areas for the election of borough, urban district, and rural district councillors fixed, and by whom ?

(*Attempt seven and no more of the remaining questions.*)

4. The Standing Orders of the Loamshire county council provide: " Motions that the report of a standing committee be received and adopted by the council, if moved by or on behalf of the chairman of the committee, shall be taken as adopted unless on division three-fifths of the members present and voting vote against the motion." Discuss this.

5. What is a parochial committee ? How is it formed, and what are its powers ?

6. The Orley parish council wish to buy a piece of land for the erection of offices. What consents will be necessary ?

7. Bilbo was the successful candidate at a recent district council election. Frodo thinks he was improperly elected. How may this be tested ?

8. A house in the Oldbury rural district is not fit for human habitation, but can be made so at small cost. How can the carrying out of the necessary works be enforced ?

9. For what purposes may land be designated as subject to compulsory acquisition in a development plan and what is the effect of such designation ?

10. Redbrick Builders Ltd. own a field which they wish to develop as a housing estate. The field is crossed by a public footpath and by a public highway, and these must be diverted if the field is to be economically developed. How can this be achieved ?

11. The Home Secretary is of the opinion that owing to its small size the Blankshire constabulary cannot be run efficiently. What steps can he take ?

12. What are the duties of a local education authority in respect of mentally handicapped children ?

CUMBERLAND FINANCES, 1956–57

We have received a copy of the concise and lucid review of Cumberland county council accounts prepared by the chairman of the finance committee, Alderman F. G. Gaskarth and county treasurer John Watson, F.S.A.A., F.I.M.T.A.

The new valuation resulted in a reduction of the county precept to 14*s.* 2*d.*, 4*s.* 11*d.* less than in the previous year. This rate payment met 21 *per cent.* of the £5,400,000 total expenditure of the council, 70 *per cent.* coming from government grants and nine *per cent.* from miscellaneous income.

Whereas the budget for 1956–57 was planned to produce a surplus of £14,000 the actual result was a surplus of £81,000 due chiefly to receipts of equalization grant and rates in excess of the amount estimated.

The report comments that the final balances of £341,000 are a welcome higher figure in view of the larger turnover to be financed: it is noted that the sum stated excludes an amount of £188,000 for plant.

Cumberland is a county with the large area of 967,000 acres and 2,389 miles of roads, including 1,017 unclassified. It is not surprising therefore that net expenditure on highways is heavy at £430,000, half mighty education and greatly in excess of any other county service.

The booklet contains an interesting statement giving particulars of county precepts issued from 1889–90 until 1957–58. The first year's poundage was 6*d.* and produced £39,000, the last 15*s.* 8*d.* with an estimated yield of £1,317,000. Although the precept poundage increased only from 11*s.* 3*d.* in 1938–39 to 15*s.* 8*d.* in 1957–58 the amount paid by the ratepayers rose from £381,000 in the first mentioned year to £1,317,000 in the last.

The loan debt of the county totalled £3,310,000 on which the average rate of interest was 3·9 *per cent.* The average yield on the £1,363,000 investments of the superannuation fund was 3·65 *per cent.*

Cumberland has experienced the usual annual increase in the issue of road fund licences. Cost per licence issued was 2*s.* 8*d.* and the percentage of cost to revenue collected was 3·8.

The library service is evidently much appreciated: books issued have gone up in two years by almost 50 *per cent.* Borrowers have increased to 53,000 but on average each one has also read more books.

No doubt because of the topography of the county the small holdings service is not particularly extensive: 37 tenants occupy 1,300 acres. Income meets about two-thirds of expenditure.

Cumberland Standing Joint Committee is not one of the police authorities experiencing any difficulty in recruiting police. Authorized establishment at March 31, was 368 and actual strength 354.

It is the policy of the county council to maintain a capital fund: the total at March 31 was £59,000.

THE AGED IN THE WEST RIDING

The 1956 report of Dr. J. Wood-Wilson, T.D., D.P.H., county medical officer of the West Riding of Yorkshire, contains a comprehensive account of the domiciliary health services provided for the aged. From the inception of the new scheme under the legislation which took effect in 1948, the county health department was charged with the establishment of a complete health service for the rehabilitation of the aged. During the past year concern was expressed on the growing waiting list for accommodation for aged persons in need of care and attention. An inquiry was therefore undertaken to determine whether the demand for accommodation could be reduced by a greater use of the health services. Less than one *per cent.* of those of pensionable age were in residential homes or establishments. The number provided with home helps represented some 3½ *per cent.*, although this rate may be higher at times, and about 10 *per cent.* were receiving domestic or home nursing care. The survey revealed the need for close co-operation to avoid wastage in the domiciliary services. It was found also that the problems of the aged are not confined to those in need of domiciliary or institutional care. There was a claimant demand for residential accommodation from aged persons who might or might not suffer from the infirmities of old age through being alone and lonely; unwanted by the family with whom they were living or unhappy in lodgings. A detailed account is given of the help given to the aged by the health visitors. It is suggested that where the health visitor was a

member of an old people's welfare committee, or club committee she could contribute much in the direction of help where needed. But it is accepted that the health visitor should not be expected to undertake routine visiting of the aged, the emphasis should be on voluntary visiting, and the health visitor called in when necessary. More than half the visits of the home nurses and 74 *per cent.* of the home helps service were for the aged. Attention was also drawn by the survey to the value of a night sitter-in service. The value of chiropody was also stressed and it is felt that this might sometimes remove the need for residential accommodation. Finally, it was concluded that there is an urgent necessity to stay the process of deterioration in the aged and that reasonable expenditure to this end might well be regarded as an insurance against an increased liability in the future.

PUBLIC RELATIONS

Hetton U.D.C. issue a quarterly *Civic News Letter* which is circulated free of charge to the senior schools in the district in which civics is included in the syllabus. Altogether some 450 copies are issued, and it is stated that but for the limitations due to the method of production, many other copies could be issued, for the interest created is said to have passed all expectations. This we are not surprised to hear—for the publication, although modestly produced, is easy to read and compiled in an interesting fashion.

Sturminster R.D.C. publish a *Civic News Letter* which is one of the most ambitious, for a relatively small county district, of all the publications of this type we have seen. It is published at fairly frequent intervals, and the one before us contains articles by the local M.P., and also by the prospective Liberal and Labour Parliamentary candidates; it also contains articles by others concerned in the good government of the county.

PERSONALIA

APPOINTMENTS

Mr. H. J. Brown, Q.C., has been appointed recorder of King's Lynn, Norfolk.

Mr. J. G. S. Hobson, Q.C., M.P., has been appointed recorder of the borough of Northampton and chairman of Bedfordshire quarter sessions. Mr. W. W. Stabb has been appointed deputy chairman of Bedfordshire quarter sessions.

Mr. John Ormerod, chief constable of Wallasey, who is 68 in April, has had his appointment extended until April, 1959.

Mr. Gordon Grant, C.B., an Under Secretary of the Board of Trade, has been appointed Comptroller-General of Patents, Designs and Trade Marks with effect from March 3, last.

Mr. I. B. Davies, at present assistant solicitor to Wrexham rural district council, has been appointed deputy town clerk and deputy clerk of the peace of the borough of Newark-on-Trent, Notts. Mr. Davies succeeds Mr. G. H. Redfern, who has been appointed clerk to Ashford, Kent, urban district council.

RETIREMENTS

Major Sir John Ferguson, C.B.E., will retire on pension from the appointment of chief constable of Kent at the end of October, next. Steps are about to be taken to appoint a successor. Sir John has been chief constable of Kent since August, 1946. After an Army career, he became in 1933 chief constable in the Metropolitan police and later a deputy assistant commissioner. He was for a time commandant of the Metropolitan Police College and rejoined the Army in February, 1940, serving as a staff officer at the War Office. He rejoined the Metropolitan police in September, 1940, and from 1943 to 1945 was chief constable of the then Sussex joint police force. From 1945 to 1946 he was an assistant commissioner of police of the Metropolis. Sir John was awarded the C.B.E. in 1948 and he was knighted in 1953.

Superintendent Walter Crombie is to retire from Berkshire C.I.D. on April 15 next.

Mr. James Webster, senior assistant clerk to the justices at Ormskirk and Formby, Lancs., is to retire on March 31, next.

NOTICES

The next court of quarter sessions for the county of the Isle of Ely will not now be held on Wednesday, April 2, next, but on Wednesday, April 9, next, at the Sessions House, Ely.

PARLIAMENTARY INTELLIGENCE

Progress of Bills

HOUSE OF LORDS

Tuesday, February 25

HOUSING (FINANCIAL PROVISIONS) BILL—read 3a.

Thursday, February 27

WATER BILL—read 2a.

HOUSE OF COMMONS

Tuesday, February 25

ROAD TRAFFIC (PARKING OF VEHICLES IN RESIDENTIAL AREAS) BILL—read 1a.

Wednesday, February 26

DISABLED PERSONS (EMPLOYMENT) BILL—read 1a.

IMMIGRATION AND PASSPORTS BILL—read 1a.

Thursday, February 27

NATIONAL HEALTH SERVICE CONTRIBUTIONS BILL—read 1a.

THE WEEK IN PARLIAMENT

Fom Our Lobby Correspondent

More than 70 M.P.s of all parties have signed a Motion tabled by Mr. Kenneth Robinson (St. Pancras, N.) calling for amendment to the law relating to suicide.

The Motion expresses the opinion "that the existing law of England relating to suicide has no deterrent effect, is capricious in its incidence and can no longer be regarded as reflecting the attitude of society; and considers that suicide and attempted suicide should now be removed from the category of criminal offences."

NEW STATUTORY INSTRUMENTS

1. **SUGAR.** The Sugar and Molasses (Suspension of Surcharge and Surcharge Repayments) (Revocation) Order, 1958.

This order revokes, on February 20, 1958, the Sugar and Molasses (Suspension of Surcharge) Order, 1957, and the Sugar and Molasses (Suspension of Surcharge Repayments) Order, 1957, thereby removing the suspension of the operation of the surcharge and surcharge repayments which again become payable from that date in accordance with ss. 7 and 8 of the Sugar Act, 1956.

The order contains transitional and supplementary provisions providing—(a) that surcharge repayments shall not be payable on sugar or molasses which by virtue of the first mentioned order were not chargeable with surcharge; and (b) for the application of certain provisions of the Finance Act, 1901, adjusting the rights of parties to contracts made before the coming into operation of the order.

Came into operation February 20, 1958. No. 225, 1958.

2. **SUGAR.** The Sugar and Molasses (Distribution Payments and Repayments) (Revocation) Regulations, 1958.

These regulations, as a consequence of the cessation of distribution payments, revoke the Sugar and Molasses (Distribution Payments and Repayments) Regulations, 1957.

Came into operation February 20, 1958. No. 224, 1958.

3. **SUGAR.** The Sugar and Molasses (Distribution Payments and Repayments) (Revocation) Order, 1958.

This order revokes, on February 20, 1958, the Sugar and Molasses (Distribution Payments) Order, 1957, the Composite Sugar Products (Distribution Payments-Average Rates) Order, 1957, and the Sugar and Molasses (Distribution Repayments) Order, 1957, thereby providing for the cessation of distribution payments on sugar and molasses payable by virtue of the Sugar and Molasses (Distribution Payments) Order, 1957.

The order also contains transitional and supplementary provisions providing (a) for the liability for distribution repayment to continue in those cases where a distribution payment became payable under the last mentioned order; (b) for the retention of the right of the Sugar Board to withhold or require the repayment of distribution payments which became payable as above; (c) for the application of certain provisions of the Finance Act, 1901, adjusting the rights of parties to contracts made before the coming into operation of the order.

Came into operation February 20, 1958. No. 223, 1958.

4. **PENSIONS.** The Pensions (India) Order, 1958.

The purpose of this order is to give statutory effect under the Pensions (India, Pakistan and Burma) Act, 1955, s. 1 (1), to the arrangements between the Governments of India and the United Kingdom embodied in the letters set out in the schedule to the order.

These arrangements will enable payment of certain instalments of sums payable to the Government of India under the letters set out in sch. 1 to the Act to be made on April 1, 1958, instead of on the dates specified in the said schedule to the Act. They will also enable the control, administration and payment of certain Indian pensions to be transferred from the Government of India to the Government of the United Kingdom or from the Government of the United Kingdom to the Government of India at the request of pensioners who transfer their permanent place of residence.

Came into operation February 15, 1958. No. 220, 1958.

5. **METROPOLITAN POLICE DISTRICT.** Pension. Metropolitan Police Staffs Superannuation Order, 1958.

This order relates to the superannuation of certain members of the civil staffs employed under the Commissioner of Police of the Metropolis and the receiver for the Metropolitan police district and members of the staffs of the Metropolitan police courts.

Sections 39 and 40 of the Superannuation Act, 1949, as originally enacted, provided for the payment of gratuities to or in respect of persons who have served for seven years in unestablished or part-time service, respectively, in the civil service. Article 5 of the Metropolitan Police Staffs Superannuation Order, 1949, made corresponding provision in respect of members of the staffs referred to above. Sections 39 and 40 of the Act of 1949 were amended by ss. 1 and 5 of the Superannuation Act, 1957, in respect of service ending on or after May 15, 1957, so as to reduce the qualifying period for a gratuity from seven years to five years and to substitute a more favourable basis for calculating the amount of a gratuity. Article 1 of this order makes corresponding amendments to the order of 1949.

Section 3 of the Act of 1957 provides that where persons have served in a temporary capacity with the Imperial War Graves Commission and afterwards entered the civil service their former service may in certain circumstances be counted for superannuation purposes. Article 2 of this order makes similar provision in respect of persons who have served with the Commission and afterwards on the staffs referred to in the first paragraph above.

Came into operation February 25, 1958. No. 238, 1958.

6. **EXPLOSIVES.** The Conveyance of Explosives Byelaws, 1958.

The byelaws here amended made under ss. 37 and 39 of the Explosives Act, 1875, relate to the conveyance, loading and unloading of explosives in cases in which byelaws made under other provisions of that Act do not apply. Byelaw 2 of the existing byelaws places restrictions on the conveyance in any carriage or boat of explosives of certain kinds with explosives of different kinds. Under the present proviso detonators not exceeding 10,000 in number are exempted from this restriction if certain packing conditions are complied with. Byelaw 1 of these byelaws raises the number to 20,000. Byelaw 4 of the existing byelaws prescribes certain regulations with regard to the conveyance of explosives in any carriage, and under para. (p) the quantity of explosives to be conveyed in one carriage is limited to 2,000 lbs. unless the carriage is enclosed in a specified manner in which case the quantity allowed in any one carriage (other than a carriage on a private railway) is 6,000 lbs. Byelaw 2 of these byelaws raises the amount to 8,000 lbs.

Came into operation February 17, 1958. No. 230, 1958.

7. **SUGAR.** The Composite Sugar Products (Surcharge—Average Rates) Order, 1958.

This order provides in relation to certain descriptions of imported composite sugar products that surcharge, instead of being calculated by reference to the quantity of sugar or molasses appearing to have been used in their manufacture, shall be calculated at specified rates by reference to the weight, quantity or value of the products.

Came into operation February 20, 1958. No. 227, 1958.

8. **SUGAR.** The Sugar and Molasses (Rates of Surcharge and Surcharge Repayments) Order, 1958.

This order prescribes—(a) the rates of surcharge payable on sugar and molasses which become chargeable with sugar duty on and after the date this order comes into operation; (b) the rates of surcharge repayments payable on molasses on which drawback or allowance of sugar duty is payable as being molasses produced in the United Kingdom from materials on which sugar duty has been paid on or after the date aforesaid.

Came into operation February 20, 1958. No. 226, 1958.

BILLS IN PROGRESS

1. **Guardianship of Infants Bill.** An Act to amend the law with respect to the guardianship and custody of infants. [H.L.]

2. **Thermal Insulation (Dwellings) Bill.** A Bill to make provision for the thermal insulation of dwellings; and for purposes connected therewith. [Private Members' Bill.]

3. **Maintenance Orders Bill.** A Bill to make provision for the registration in the High Court or a magistrates' court of certain maintenance orders made by the order of those courts or a county court and with respect to the enforcement and variation of registered orders; for the attachment of sums falling to be paid by way of wages, salary or other earnings or by way of pension for the purpose of enforcing certain maintenance orders; and for purposes connected with the matters aforesaid. [As amended by Standing Committee B.]

4. **Housing (Financial Provisions) Bill.** An Act to consolidate certain enactments relating to the giving of financial assistance for the provision of housing accommodation and to other financial matters. [H.L.]

5. **Metropolitan Police Act, 1839 (Amendment).** A Bill to amend s. 54 of the Metropolitan Police Act, 1839, for the purpose of increasing the maximum penalty for threatening, abusive or insulting words or behaviour in any thoroughfare or public place. [Private Members' Bill.]

6. **Workmen's Compensaion (Supplementation).** A Bill to provide for the payment of allowances out of the Industrial Injuries Fund to workmen to whom the Workmen's Compensation Acts apply; and for purposes connected therewith. [Private Members' Bill.]

7. **Litter.** [Now amended by Standing Committee C.]

8. **Matrimonial Causes (Property and Maintenance) Bill.** A Bill to enable the power of the court in matrimonial proceedings to order alimony, maintenance or the securing of a sum of money to be exercised at any time after a decree; to provide for the setting aside of dispositions of property made for the purpose of reducing the assets available for satisfying such an order; to enable the court after the death of a party to a marriage which has been dissolved or annulled to make provision out of his estate in favour of the other party; and to extend the powers of the court under s. 17 of the Married Women's Property Act, 1882. [Private Members' Bill.]

9. **Disabled Persons (Employment) Bill.** A Bill to amend the law relating to disabled persons as regards the minimum age for attendance at certain courses under the Disabled Persons (Employment) Act, 1944, as regards registration under that Act and as regards the provision by local authorities of employment or other work under special conditions.

10. **Immigration and Passports.** A Bill to provide that any British subject or British protected person who is deemed or declared to be a prohibited immigrant in any British colony, protectorate, United Kingdom mandated territory or United Kingdom trust territory, or who, being resident in any such colony, protectorate or territory, is refused a passport, may appeal against such decision or refusal to an advisory committee set up to advise the Secretary of State for the Colonies. [Private Members' Bill.]

11. **National Health Service Contribution Bill.** A Bill to increase the rates of national health service contributions, and for purposes connected therewith.

CORRESPONDENCE

The Editor,
Justice of the Peace and
Local Government Review.

DEAR SIR,

QUALITY RATING OF LOCAL GOVERNMENT STAFF

Mr. Raymond Knowles has made an interesting contribution in your current issue on this subject, upon which I would like to make the following observations.

Mr. Knowles gives advice to what he terms "the staff ill-equipped in schooling and natural ability" by asserting that such staff may only make headway by throwing away their text-books and going into business. (There is plenty of business done inside local authority spheres, I would point out).

Except in a very few cases I should say the opposite applies. Such staff tend to elect to stay where they are and many by perseverence and loyalty become old and trusted members of their organization according to their personal capacity. Others move on by urge, or by seizing opportunities.

The fact that there are many square pegs in round holes is also a reality in other sections of human activity besides local government and the subleties of the situations created by these conditions are often well understood by departmental chiefs. It is within the range of the responsibility of the establishment officer to assist integration by liaison, but the work of the establishment officer, in my view, must of necessity be an assignment from those with overriding powers in such matters; otherwise the establishment officer would no longer be that alone, but town clerk, and committees as well.

Yours truly,

W. N. TRENEMAN.

6 Heath Terrace,
Leamington Spa.

REVIEWS

Erskine May's Parliamentary Practice. By Sir Edward Fellowes and T. G. B. Cocks. London: Butterworth & Co. (Publishers) Ltd. Price £5 5s. net.

Sir Erskine May's monumental work is one of those which everybody knows by name, which comparatively few persons are professionally obliged to consult in practice, and which (more's the pity) not many people in this country look into unless they are obliged. It is gratifying to learn from the preface to this new edition that overseas demand had caused the fifteenth edition to go out of print, thus necessitating the issue of the sixteenth. Since the fifteenth edition appeared there have not been striking changes in procedure of the House of Commons, which forms the main part of the book, but the fact that neither House has done anything spectacular does not mean that there have been no changes. The Lords have introduced some reforms, and these, with developments in the Commons, have added nearly 100 pages to the new edition, despite elimination by the editors of obsolete matter. It has long been the practice of successive editors to maintain the lay-out of the work in such a way that the advance of practice and procedure in both Houses can be followed from one edition to the next. The Clerk of the House of Commons is, by custom, the senior editor and in the present edition Lord Campion, who held that office until lately, is associated as consultant editor. A number of other officers of both Houses have given assistance in relation to particular parts. In this connexion it is interesting to notice that the copyright of the work, which we believe we are right in saying has for many years been held in succession by Clerks of the House of Commons, has now been vested in trustees, with the object of securing continuity. The change has been made possible by the generosity of Lord Campion, who transferred the copyright to the trustees.

The practice of Parliament depends more on the rules of the two Houses than on statute, but the House of Commons Disqualification Act, 1957, should be noticed as a provision which will import greater simplicity into certain questions.

The work as a whole is divided into three "books," and the numbering of chapters is consecutive throughout. Thus book II begins with chapter 12 and book III with chapter 31. It has to be remembered also that, although procedure of the Commons is most commonly thought of as the subject of the work (amongst other reasons because it is more complicated, so that reference to *Erskine May* grows ever more necessary), the work does in fact deal with the procedure of both Houses, its full title being *The Law, Privileges, Proceedings and Usage of Parliament.*

Book II is concerned with public business in both Houses. It sets out the machinery of Parliament, including such matters as the physical arrangement of the buildings and the duties of the officers. The arrangement of business is explained, with a number of technical details such as the Ten O'clock Rule and the differences between what can be done on different days of the week. For the general reader perhaps the most interesting chapters in this "book" are chapter 21, which outlines the different stages of a public Bill both in the House and in Committee, and chapter 22, explaining the system of committees. More recondite, but perhaps also more important, are the four chapters dealing with the control of national finance, beginning with general principles and ending with the effect of the Parliament Act, 1911, as since amended.

For many of our own readers book III may have even greater value. This deals with private Bills, and has been very much amended since the previous edition. The amendments arose from a review of the Standing Orders of the House of Commons in 1951 and 1952, and an examination of private legislation by a joint committee of both Houses in 1954 and 1955. A special article on the work of this joint committee is included.

The work contains a table of statutes and table of cases placed immediately before the index, which they are intended to supplement, rather than to be used in the manner of the corresponding tables in an ordinary legal textbook. The index has been enlarged and is admirably complete.

This work, although perhaps not likely to find its place in the lawyer's private library, is one which certainly ought to be in every law library and indeed every major public library. It can be studied not merely for its wealth of detailed information on particular topics but also for the conspectus which it makes possible of the working of Parliament, both as a legislative organ and as a body complementary to the work of executive government. While it was in our hands for examination and review, one of the periodical arguments broke out in *The Times* and elsewhere, about reforming parliamentary procedure. The rules of Parliament can be regarded as a Palladium of Liberty or as a morass of Mumbo Jumbo, according to the reader's taste: whichever way you look at them, *Erskine May* can be tremendous fun.

Famous American Crimes. By David Rowan. London: Fredrick Muller, Ltd. Price 16s.

Inside the jacket of this book we are told that the author "demonstrates once again that in the world of crime true stories are more exciting than the most realistic detective novel or Hollywood film." Well, each of us has his own standard of literary excitement, but one can hardly resist the thought that the ghoulish presentation of these "famous American crimes" which these unhappy pages unfold, is calculated to please only the sensationally minded.

What is Mr. Rowan's purpose? A serious study in national criminology? Then his chapters are both too brief and too sensational in their selection of detail. Fireside relaxation for the morbid? Then he has succeeded. The accounts of murder and terror here set out with all the slickness of modern journalese will teach the reader nothing. Nor will they excite him with any decent kindling of the blood. Is it so breath-taking to goggle with Mr. Rowan at the deaths in the execution gas-chamber of two accomplices in murder? Is it very enthralling—or sociologically interesting—to read (this time of a murderer's victim) "brunettes, however seductive, left him cold. Later, though, his tastes widened and the colour of the hair no longer mattered much." That is the type of information here retailed. If you are eager for more, then hare round the corner for this book.

The Thames Conservancy, 1857–1957. Obtainable from the Thames Conservancy, 2–3 Norfolk Street, Strand, W.C.2. No price stated.

To mark the centenary of their formation, the Conservators of the River Thames have published a book, in card covers, which represents a most fascinating record of their existence. The growth of the work of the Conservators is shown by the fact that they spent £1,500 in 1931 and £451,000 in 1957. From the appendix, tables show that the peak of the number of pleasure vessels on the registers was reached in 1913 with 14,961—the figure for 1955 was 11,415. This decline is surprising in view of what is generally regarded as an unprecedented interest elsewhere in pleasure craft. The history deals with every aspect of the Conservators' work over the past 100 years, and the authors are to be most warmly congratulated upon the compilation of such an interesting and informative account. That history is in itself a continuation of 900 years other history in the administration of the Thames—a brief note concerning which is also given, and an interesting facet of that history is given in recording that Richard I sold his rights to the Thames to the Corporation of London in 1197, but that gradually all their rights diminished until today when all remains is their right to appoint one conservator.

Annual Charities Register and Digest, 1958. London: Butterworth & Co. (Publishers) Ltd. and the Family Welfare Association. Price 17s. 6d. net.

This annual contains everything a solicitor advising a client as to bequests for charity needs to know; it also contains much information which is invaluable for welfare officers to have at hand to advise relatives of persons in need. The annual gives details concerning management, administration, admission, and (where possible) the financial standing of each charity listed—in addition to the address and date of foundation of each such charity.

Hire-Purchase and Credit Sales. By W. D. Park. London: The Solicitors' Law Stationery Society, Ltd. Price 9s. 6d. net.

This is one of the series entitled "Oyez Practice Notes." Like other works in that series, it sets out essential information in a summary form, but well spaced and well indexed, so that the user of the book can find quickly what he wants. The law of hire-purchase has troubled Parliament from time to time, and mainly depends at the present day upon the Acts of 1938 and 1954.

Not the least of the difficulties attending the practical administration of the Acts is to know what hire-purchase is, and to

distinguish it in some cases from a sale on credit under which the purchase price is payable by instalments. This and other nicities affecting the ownership and possession of the goods dealt with by one of these contracts are briefly explained, and the author then passes to the rights of third parties, and to notes on some particular sections of the Acts. Transactions of this type often come up in everyday practice, and may involve an amount of work for the practitioner disproportionate to the value of the articles involved, or the fees he is able to charge to the parties. In dealing with such matters, it will be useful to him to have these "practice notes," forming a kind of ready reference to the points which have to be borne in mind.

INTERNATIONAL RELATIONS—II

In discussing this subject last week, we promised to revert to some recent exceptions to the general rule that people in various parts of the Commonwealth, or in foreign countries, are apt to behave in a manner entirely unpredictable and at variance with what we have been taught to expect of them. Some of the following exceptions that prove the rule are almost too good to be true.

The raw huskiness of those who, in our grandfathers' days, helped to colonize Australia is still a living memory; all the more, therefore, was it a joy to read a recent despatch, in *The Times*, from Canberra describing how a member of the Australian Antarctic expedition, who had unfortunately broken three teeth in his dentures, had them replaced with three elephant seals' teeth suitably filed for size. Though he is, apparently, the only man in the world equipped in this fashion, he finds the new teeth perfectly comfortable; the only trouble is that they do not match the others in colour.

Dominica, as everybody knows, is part of the British Colony of the Leeward Islands; according to the Colonial Secretary (replying to a recent question in the House) the latest available figure for illiteracy in the territory was 40 *per cent.* in 1946. Federal elections are being held in the colony next month; they are being contested by three political parties. The two statements, in the ears of one Member, struck an incongruous note, until the Minister added that the respective parties' devices were to be "a Hand, a Hat and a Bottle." This kind of symbolism is suggestive. The use of a Hand is familiar in the procedure of voting (though not in the Mother of Parliaments); it may also be used for the purposes of repression or applause. A Hat comes in handy when you want to raise a point of order during a division; it is also the implement employed by your opponent for talking through. A Bottle is more difficult to explain; any Opposition is apt to accuse the Government for the time being of creating bottle-necks in legislation or administrative procedure; but we, knowing the habits of party polemics, are inclined to fear that there may be unparliamentary references to an alleged fondness (on the one side or the other) for the liquid contents.

We have referred above to the people of China. An item recently appeared in the *News Chronicle* describing the visit of a young English bride to meet her Chinese husband's family in Singapore. Such an inauguration of social and family contacts is always a bit of an ordeal, but it must have required greater courage than usual on this young woman's part. For she had to be introduced to *four* mothers-in-law, addressed respectfully, in the polite Celestial manner, as "First Mother," "Second Mother," "Third Mother" and "Fourth Mother." It is good to read that all of them were "very sweet" to her—"just like aunts."

"Red sky at night—shepherd's delight" says the proverb, which is too old to have read into it any political implications. The Soviet Union, however, in its impressive display of technical progress, has lent a heightened colour to the ancient adage. *The Times* has recently recalled a lecture given in Moscow by a meteorological expert who assured his audience that a threatened snowstorm over the city on November 7, 1952, was averted by sprinkling dry ice, from aircraft, on the clouds, which were thus dispersed to plan so as to ensure fine weather for the annual celebration of the Revolution in Red Square. It is regrettable that a similar attempt on November 7 last did not achieve such signal success.

Years of "conditioning" by American films have not removed the ordinary Englishman's impression that the people of the United States are the inheritors of the *baroque*, with all its flamboyance, its picturesque vividness, its anxiety to do everything "in a big way." Even the institution of marriage is no exception: the annals of Hollywood stardom are rich in stories of actors and actresses venturing upon their fifth or sixth essay in matrimony, and celebrating the same by emptying bottles of champagne into the floodlit swimming pool, and other luxurious practices which outdo the wildest extravagances of Louis XIV's Versailles. At the same time the plays of such writers as Mr. Eugene O'Neill and Mr. Tennessee Williams have portrayed, with a candour that recalls the Restoration stage, scenes of marital hatred and violence marking what an English Judge has called "the wear and tear of married life." It is perhaps this enthusiasm for extremes—this disregard of appearances—which has moved a couple at Rochester, New York, to hope for the best and prepare for the worst at the wedding itself. The bride (said *The Times*, a day or two before the ceremony) would be wearing a splint on her foot; the bridegroom was still suffering from the effects of concussion, while the maid of honour had a black eye and a sprained ankle. Two of the bridesmaids had each an arm in a sling—the one because of a fractured humerus, the other of a dislocated shoulder. Careful perusal of the item, however, shows that here is no no case of intelligent anticipation; the happy pair and the maid of honour had recently been victims of a car accident, while the two bridesmaids had honourably won their scars at skating competitions. Such weddings may yet become fashionable, on both sides of the Atlantic, among those who believe in propitiating Hymen, or engaging in whatever is the converse of "tempting Providence." A.L.P.

BOOKS AND PAPERS RECEIVED

(The inclusion in this feature of any book or paper received does not preclude its possible subsequent review or notice elsewhere in this journal.)

Evidence. Rupert Cross, M.A., B.C.L. Butterworth & Co. (Publishers) Ltd. Price 55*s.* net, postage 1*s.* 9*d.* extra.

Hertfordshire County Records, 1833–1943. Vol. X. Edited by William Lee Hardy, M.C., F.S.A., Hertford clerk of the peace. Price 42*s.* plus 2*s.* 6*d.* postage and packing.

Minnesota Law Review. Vol. 42, No. 3.

Children Services Statistics, 1956–57. I.M.T.A. and The Society of County Treasurers. Price 3*s.* post free.

City of Lincoln Police. Annual Report of the Chief Constable.

General Election of County Councillors. L.C.C. Price 6d., postage extra.

Financial and General Statistics of County Councils, 1956–57. The Society of County Treasurers. No price stated.

Education Statistics, 1956–57. Institute of Municipal Treasurers and Accountants (Incorporated); The Society of County Treasurers. Price 3*s.* post free.

Derby Children's Committee Eighth Annual Report.

PRACTICAL POINTS

All questions for consideration should be addressed to "The Publishers of the Justice of the Peace and Local Government Review, Little London, Chichester, Sussex." The questions of yearly and half-yearly subscribers only are answerable in the Journal. The name and address of the subscriber must accompany each communication. All communications must be typewritten or written on one side of the paper only, and should be in duplicate.

1.—Children and Young Persons—*Child—Proceedings after supervision order—Mental defective.*

May I refer to P.P. 1 at 121 J.P.N. 747 in which you give as your opinion that the court cannot deal under s. 8 of the Mental Deficiency Act, 1908, with a young person found in need of care or protection. I appreciate that in answering the question, you were asked about a young person. May I inquire what your opinion would be if the question had concerned a child?

RILKA AGAIN.

Answer.

A child can be dealt with under s. 8 of the Mental Deficiency Act, 1913, if she is found liable to be sent to an industrial school under s. 58 of the Children Act, 1908. That section is repealed by the Children and Young Persons Act, 1933, and replaced by ss. 61 to 66 of that Act. The child is, in the circumstances described by our correspondent, liable to be sent to an approved school, and we are of the opinion that she could be dealt with under s. 8 of the Mental Deficiency Act, 1913, if she came within one of the classes of persons defined in s. 1, *ibid.* The matter is, however, not completely free from doubt, as she comes within a new class of case introduced by the Children and Young Persons Act, 1933, and it might be considered preferable to consider making a fit person order to the local authority.

2.—Game—*Gun licence declared void—Gun Licences Act,* 1870, *s.* 11.

A was convicted of an offence under s. 30 of the Game Act, 1831, and his gun licence was declared void by the magistrates. Accordingly he was not allowed to remove his gun, which was an exhibit in the case, from the precincts of the court for want of a licence. In answer to a question at 110 J.P.N. 156 you stated that "in our opinion the licence is void for the rest of the period it covers, and cannot be replaced lawfully by another licence during such period."

I shall be glad if you will inform me (*a*) whether there is any legal authority to support your opinion and if not would you give your reasons for arriving at the above conclusion. (*b*) Would A be entitled to obtain a full £3 game licence which would also enable him to carry or use a gun outside the curtilage of a dwelling-house? If A had not held a licence before being convicted of the first offence he would, presumably, be in a better position by not having complied with the law, for he would be able to take out a gun licence immediately after the case was over. If the legislation for declaring a gun licence void was meant to deter the inveterate poacher, would not a provision have been incorporated to prevent a person convicted under s. 30 from applying for a gun licence until July 31 after? G. QUO.

Answer.

(*a*) We know of no authority to support the opinion cited. Section 11 of the Gun Licences Act, 1870, which, in fact, is in terms exactly similar to s. 11 of the Game Licences Act, 1860, says that the licence shall henceforth be null and void. It is difficult, we submit, to come to any conclusion other than the one expressed in the P.P. cited.

(*b*) Each of the sections referred to refers to someone who has: "obtained a licence under this Act." Since A does not come within that category as far as a game licence is concerned, we think he could properly obtain such a licence. We agree that if he had not held a licence before conviction, he would be in a better position in so far as he could apply for a gun licence any time he liked.

As we have said before, the game laws are notoriously archaic and until they are amended or replaced such anomalies are bound to exist.

3.—Housing Act, 1957—*Reasonable expense.*

I am doubtful whether the council is safe in making a demolition order in respect of a farmhouse, on the ground that it is not capable at a reasonable expense of being rendered fit, when you take into account the value of the holding as an agricultural holding of which the dwelling-house is an important part. To my mind the situation differs from that of an ordinary dwelling-house. I fear that on appeal an objector would be likely to succeed on this ground. It is impossible to say what the value of a farmhouse as a separate part of an agricultural holding may be. It has no separate market value, although for the purposes of rating it has an assessment.

Can you call my attention to any case that has been decided in the courts on this point? I have been unable to find any reported case but there might be a case unreported in the county courts. CESOR.

Answer.

We have searched unsuccessfully for such a case as is last mentioned in the query. We do not know of any rule that compels the court to regard the house in isolation, if the owner argues that an amount, which it would be unbusinesslike to spend upon a house serving no purpose except that of a dwelling, is not too much to spend upon a house which has been used for some further purpose. The principle might apply to other residential premises equally as to a farmhouse. But we are far from suggesting that the court must accept the argument. We think the question of reasonableness lies in the court's discretion.

4.—Licensing—*Occasional licences—Premises owned by local authority—Disqualification of justices who are members of authority.*

In this jurisdiction the local authority owns a number of buildings which contain rooms suitable for large public dances and these are, in fact, regularly let for the purpose of public dances held weekly and sometimes on several nights in the week. It is the practice to apply to the justices for occasional licences in connexion with these dances.

The question of whether an occasional licence is applied for or not is generally one for the promoters of the function and not all promoters apply. The rental obtained by the local authority is the same whether an occasional licence is applied for or granted or not but if an occasional licence is desired, the local authority issues to the promoter a permit authorizing him to apply to the justices for bar facilities.

It is understood that actual lettings are in the hands of an official but that as competition is very keen for Saturday nights, a committee of the council does in fact consider which of the competitive applicants should be granted lettings for these nights.

It has been suggested that members of the city council who are also magistrates should not sit when applications are made for occasional licences on the ground that if a letting has been made with permission to apply, they might reasonably be considered to be biased and debarred from adjudicating upon actual applications.

Do you consider that councillor magistrates might, if objection were taken, be held to be disqualified from adjudicating?

NOKA.

Answer.

It is a good working rule to decide borderline cases on this topic in favour of advising a justice not to adjudicate in any matter in which objection is made to his doing so on the ground that his impartiality is affected. In this case, the local authority is interested in the profits of the premises, even if not in the profits deriving from the sale of intoxicating liquor, and s. 48 (3) of the Licensing Act, 1953, may be construed with strictness so as to bring within its scope a justice who is a member of the local authority; *a fortiori* a member of the committee that considers competing applications.

Arising from the nature of the bias that might be suggested, we express the view that the justices who hear an application should be at pains to decide it in accordance with s. 148 of the Licensing Act, 1953, and to avoid allowing themselves to assume a position of appellate tribunal giving further consideration to the claims of "competitive applicants" whose claims have been considered, *and completely disposed of* by a committee of the local authority.

5.—Private Street Works Act, 1892—*Street repaired before adoption—Making up now to be completed.*

In 1932 the council purchased from the War Department the fee simple of a strip of land known as New Road, which connected two highways in the urban district.

In the conveyance to them the council covenanted as follows: "(*a*) that the council will free of expense to the Secretary of State or any Government department maintain the said road as a highway in a reasonable state of repair and condition and will in

due course make up the same (including the ditches hereby conveyed) as a highway repairable by the inhabitants at large;

(*b*) that when such road is so made up and taken over by the council so as to become repairable by the inhabitants at large neither the Secretary of State nor any Government department shall be held liable as frontagers for payment of any of the costs charges and expenses of such making up under s. 150 of the Public Health Act, 1875, or otherwise provided that such exemption shall not extend to any assignee or transferee from the Secretary of State or any other Government department."

The road has been continuously open to the public since its acquisition as a highway and the council have, from time to time, done minor works of repair to the surface.

The council have now purchased some land abutting on the road and they propose to develop it as a housing estate. It is therefore necessary to make up the road as part of the housing scheme. Can the council now make up the whole length of the road under the Private Street Works Act, 1892 (which they adopted in 1949) and charge frontagers who have purchased from the War Department with the cost of making up the road?

The case of *Folkestone Corporation* v. *Marsh* (1906) 70 J.P. 113, although not on all fours with this, has many points of similarity. PERNES.

Answer.

Yes, in our opinion. The council have not yet adopted the street and were only under an obligation to repair under contract and not as highway authority. The making up is now primarily in the interests of the housing scheme and some contribution under s. 15 of the Act of 1892 might obviate objections.

6.—Public Health Act, 1936—*Water supply inadequate through corroded internal pipe.*

I refer to P.P. 6 at 121 J.P.N. 850. The council are faced with similar circumstances, *i.e.*, the piped water supply to a house occupied by a tenant has dwindled to such a degree that it is now insufficient for the domestic purposes of the occupants. This is undoubtedly due to corrosion of the pipes within the house. Whilst it is agreed that the opening words of s. 138 (1) of the Public Health Act, 1936 (as amended) cover the circumstances, the remedy prescribed in para. (*a*) of the subsection does not. Paragraph (*a*) refers to a requirement that the owner of the house shall "connect it to a supply of water in pipes provided by . . ." In the circumstances outlined there is already a connexion with such a supply, albeit not a sufficient one for the domestic purposes of the occupants. Is it suggested that there is no connexion within the meaning of the section if there is not a satisfactory supply?

P. SARTOR.

Answer.

Paragraph (*a*) speaks of connecting the house, not the tap, and we share your difficulty, seeing that the house is in fact already connected. The same difficulty arises in cases we have known, where a malicious person has removed the tap and hammered up the only incoming pipe. But the Act of 1936 provides no other remedy, unless possibly under s. 92 (1) (*a*). On principle we prefer the direct remedy, and we should therefore first try s. 138.

7.—Rating and Valuation—*Public sanitary conveniences.*

Are public conveniences rateable? My council have provided public conveniences on a highway. Washing facilities are available but there are no attendants on the premises. Income from the penny slots is negligible compared with the cost of maintaining and cleaning the conveniences. The council would not be likely to find a tenant willing to pay any rent. Further the council have no power to sell the land. If the premises are rateable, should they be assessed on the contractor's basis: *Kingston Union* v. *Metropolitan Water Board* (1926) 90 J.P. 69? A. LYS.

Answer.

We see no reason to suppose that these premises are not rateable. The judgments in *Liverpool Corporation* v. *West Derby Union* (1905) 69 J.P. 277 seem conclusive. We do not see any such difficulty about valuing in the ordinary way as would justify invoking the contractor's basis: the premises may be unlettable by the council, because no profit can be made, but the council might themselves be tenants of such premises instead of building them; *cp. Mersey Docks Board* v. *Llaneilian Overseers* (1884) 49 J.P. 164.

8.—Real Property—*Fire insurance—Covenant in mortgage.*

It is believed to be a fairly common practice for lenders, including local authorities, to require the insurance of a property being mortgaged to be effected through a named office. In this connexion reference has been made to the case of *Tredegar* v. *Harwood* (1929) 139 L.T. 642. Can you please comment and say whether you are aware of any other case on this point? BILSOR.

Answer.

We have not found any case later than that cited, which was a decision of the House of Lords. In *Upjohn* v. *Hitchens* (1918) 119 L.T. 180, the Court of Appeal dealt with the point, and earlier cases were considered. The decisions mentioned related to leases, but they are equally applicable to mortgages; in particular, Lord Shaw indicates that such a stipulation may produce substantial economy where many properties are the subject of leases or mortgages from or to the same person.

9.—Road Traffic Acts—*Speed limit in built-up area—Goods vehicle—Which offence to be charged?*

Until recently the police in this area have taken proceedings, under s. 10 of the Road Traffic Act, 1930, against the drivers of goods vehicles exceeding the speed limit in built-up areas, but are now alleging an offence under s. 1 of the 1934 Act. The reason for this is not clear and it can only be assumed that it is thought that the bench will deal more severely with cases in which the wording of the offence itself reveals that it has been committed in a built-up area, although this is a factor which is already taken into account when assessing the appropriate penalty.

Your observations on this new practice would be appreciated.

JESTIC.

Answer.

We cannot say why there has been any change in the practice, but we can see no possible objection to the use of s. 1 of the Act of 1934 in any case in which a motor vehicle of whatever description is driven in a built-up area at a speed exceeding 30 miles an hour. Where the facts disclose two possible offences of a similar kind, the prosecution are entitled to lay information for whichever they choose.

10.—Town and Country Planning—*Condition upon private estate development—Buildings not to be occupied until street made up.*

My council has under consideration the question of recommending to the planning authority that an enforceable condition should be inserted in any planning consents which may be issued for the development of private estates, to provide that before any of the houses on such estates are occupied for residential purposes, the estate roads (and surface water drainage) should be provided to the reasonable satisfaction of the highway authority. In their consideration of the matter, the council had in mind s. 14 of the Town and Country Planning Act, 1947, and the provisions of the New Streets Act, 1951, as amended by the Act of 1957. The New Streets Act has not, however, yet been applied to this rural district. I shall be glad of your opinion as to whether such a condition could legally be enforced. It would also be appreciated if I could be informed as to whether in fact such a condition has been inserted in any planning consent and, if such a condition has been challenged, the legal ruling given subsequently.

DASTIC.

Answer.

We have searched widely but without success for a case in which such a condition has been upheld or over-ruled by the Minister. We do not at present see how it could be enforced.

11.—Water Supply—*Pollution of gathering grounds.*

The council's impounding reservoirs receive their water supply from gathering grounds which are situate almost wholly in the area of an adjoining urban district. A recent survey of the gathering grounds has revealed sources of pollution from (i) two farmsteads, the domestic sewage and farmyard liquid manure from which is piped on to the grounds, (ii) grazing cattle, (iii) a motor vehicle repair plant depot, and (iv) opencast coal mining operations. The premises named are situate on the gathering grounds. By an order made under s. 33 of the Water Act, 1945, the provisions of the Public Health Act, 1936, now apply to the council's water undertaking. The council do not own any part of the gathering grounds.

Will you please advise:

(*a*) What powers are available to the council to control or prevent the pollution referred to above?

(*b*) Generally, on the legal position.

PAKEN.

Answer.

(*a*) Power to prevent such pollution is given by ss. 18–22 of the Water Act, 1945.

(*b*) Action may be available also under s. 69 of the Public Health Act, 1875, or the Rivers Pollution Act, 1876.